

1997 Report: Problem Areas

Pursuant to 1997 Neb. Laws LB 397, section 37, the Tax Equalization and Review Commission (hereinafter referred to as the Commission) shall "publish a formal equalization plan.... The plan shall focus on problem areas both geographically and by type of property as indicated by the Property Tax Administrator..." In light of the fact that the hearings conducted by the Commission for the formal plan commence on May 28, 1997, it is the position of the Property Tax Administrator (hereinafter referred to as the Administrator) that the 1997 Report: Problem Areas must be issued in a timely manner for consideration by the Commissioners and other interested persons.

In a format similar to the 1996 Report: Problems Areas, the 1997 Report will summarize the findings of the Administrator focusing on problem areas both geographically and by type of property in compliance with 1997 Neb. Laws, section 37. The 1997 Report will also provide general information regarding the efforts of the Property Tax Division (hereinafter referred to as the Division) in preparation for the 1998 assessment year, focusing on improvement of assessment practices and rigorous development of the sales file used to publish assessment ratio studies and other statistical measures.

The purpose of the Division is to assist the Commission and other interested persons in accurately measuring the efforts of the county assessor in setting uniform and proportionate values on real property for tax purposes in each county, and to provide useful information to the county assessor to facilitate their efforts. Additionally, state law requires the Division to adjust the assessed valuation of each school district for use in the Tax Equity and Educational Opportunities Support Act, and to publish assessment ratio studies to measure the quality and uniformity of assessment practices. (Sections 79-1016 and 77-1327, R.R.S. 1996.)

For the 1997 assessment process, the Division devoted a considerable amount of time and effort in the development of the sales file, which was used to create statistical studies to indicate the quality of assessment and level of value of the classes and subclasses of real property in each county. Additionally, the Division continued its efforts to understand the assessment practices of Nebraska's 93 county assessors. While these efforts will continue, the Division will focus more attention on developing models and programs for the improvement of the assessment process.

DEVELOPMENT OF THE SALES FILE

While the Division has managed a sales file used to measure the level of value of classes and subclasses of real property in the state for many years, never has the sales file been so heavily relied upon as in the last year. The data displayed was used by each county assessor in planning and implementing adjustments to the assessed value of classes and subclasses of real property in the county, by the Commission to make adjustments of classes and subclasses of real property for

purposes of statewide equalization, and will be used to adjust the assessed valuation of real property in each school district for purposes of state aid.

It is anticipated that heavy reliance on the sales file will continue; therefore, the Division shall rigorously adhere to a strict schedule for the transfer of information from the county officials to the Division for the sales file development. It is the position of the Division that the sales file provided adequate information by which to determine the level of value and quality of assessment, however, the timeliness of its development was lacking in 1997.

For the 1998 assessment year, the Division will take action to assure that the sales file is adequately and timely developed. The Administrator will issue an order within the next month that will specify the process for the transfer of information used in the sales file, the responsibilities of the Division and the county assessors in the review of the data, and the ability of the county officials to challenge the actions of the Division regarding the data used in the sales file. The purpose of the order is to develop the sales file through a systematic process, to give advanced notice to all interested persons regarding the process, and to serve as a mechanism to assure compliance with the process. Without such an order, the sales file cannot be timely developed for use in the 1998 assessment and equalization process.

The process established by the Administrator will be rigorous, and adherence to the schedule will be mandatory for all officials, both state and local, in the development of the sales file. If the process is followed, the sales file will be a useful tool at all stages of the assessment of real property for tax year 1998.

REPORTS OF THE PROPERTY TAX ADMINISTRATOR

Several reports will issue from the Administrator during the 1998 assessment process. The reports, including statistical data, are intended to provide the Commission and the county assessors with information that will illustrate the progress made in the improvement of the assessment practices of real property.

The Division will conduct interviews with each county assessor during June and July, 1997, the purpose of which will be to gather information regarding the structure of each county assessor's office, the budget of the county assessor's office for the 1997-98 fiscal year, and the assessment plans of the county assessor for the 1998 assessment year. The information will be compiled and made available to the Commission on or before July 17, 1997. It is anticipated that this report will assist the Commission in having data on the funding and resources available to the county assessors and the plans that are anticipated to be carried out for the assessment of real property for 1998.

The Division will provide statistical data to the Commission and the county assessor twice during the 1998 assessment process. First, in early January, 1998 and second, on or before April 5, 1998. The first statistical reports will display the assessment ratio and other related statistics of the county

by class and subclass prior to the implementation of the 1998 assessed valuations. The second statistical reports, which will accompany the opinion of the Administrator, will display the assessment ratio and other related statistics of the county by class and subclass after implementation of the 1998 assessed valuations. Additionally, the data will be displayed in two reports for each class of real property: one, the analysis of the sales in the data base limited only to the qualified sales; and, two, the analysis of all sales in the data base, excluding the top and bottom ten percent of the sales. The purpose of this information is to provide the Commission with bench mark data from which to review changes made to assessed valuations by the county assessor for the 1998 assessment year.

MODELS AND PROGRAMS TO IMPROVE ASSESSMENT PRACTICES

In anticipation of the passage of LB 270 during the 1997 session of the Nebraska Legislature, with its modifications to the Cash Fund of the Division, the Division will develop models and programs that are intended to improve the assessment practices of the county assessors. Other programs, in addition to the two described below, may result from issues raised by the Commission in the formal plan of equalization.

One of the first programs will be to develop an assessment manual to be used to provide a framework upon which to systematically and accurately assess real property. While some counties already have such a manual for their use, many counties do not. The intent of the Division is to provide this manual for the counties that do not have the time or resources to develop one on their own. The assessment manual will not be a complete guide to the assessment process, but if followed by an assessor should provide evidence of uniform and consistent application of fundamental assessment practices.

Another program will involve an accurate implementation and valuation of real property that receives the special use valuation for agricultural land. This special valuation is commonly referred to as "Greenbelt". Areas of concern that have developed in recent years are: the adherence to the statutory qualifications required for land to receive greenbelt; the valuation methodology employed to determine the greenbelt value and the market value; the administrative implementation and application of greenbelt; and, the recapture of the untaxed market value. For purposes of statewide equalization, it is important that accurate information be gathered on both the greenbelt value and the market value to assure equal tax treatment of like property-across-county lines.—

MANAGEMENT OF THE ASSESSMENT PROCESS

It continues to be the opinion of the Administrator that the offices of the county assessor are severely understaffed and under-funded. There is great disparity in the availability of technological tools available to each county assessor. And while some offices may be adequately funded and staffed in the opinion of the county assessor, there is an issue of the dedicated use of the resources

available for the county assessor for the assessment of real property. As it has often been stated by observers of the assessment process to gain real progress in the quality of the assessment of real property the resources must be made available at the source of the valuation process, the county assessor, and those resources must be focused upon the assessment and valuation of real property. To put resources into any later step in the process diminishes the return on the investment to the assessment process.

A continued area of concern, and one that was raised during the hearings of individual property appeals to the Commission and during the hearing for statewide equalization, is the fundamental process of listing accurate, current and pertinent characteristics of real property from which to make a determination of the market value of the real property in the county. While an accurate and current listing of the property's characteristics will not guarantee quality assessed valuations, it is certainly necessary to make an efficient use of the market data. Without an accurate and current inventory capturing all characteristics that effect value in the market, development of comparability of sales is seriously impeded. Also, initiating and maintaining a current inventory of property characteristics and a uniform standard of applying subjective characteristics establishes a factual threshold of reasonability of valuation that must be overcome in any challenge to the valuation of real property in the county.

One issue that was questioned in each hearing during statewide equalization was the issue of the date for the information used in the cost approach. While great variances within a county in the dates of the materials used to establish the cost data may appear at first blush to raise concerns, the real basis for concern lies in the failure to establish accurate market derived depreciation factors. Except in cases when the cost information has become outdated, the cost information can be adjusted to arrive at a reasonable estimate of replacement cost new. The critical issue for determination of appropriate application of the cost approach is the depreciation method that determines whether the cost approach resembles an estimate of the market value of the property. The Division will attempt to gather information regarding methodology on the determination of the depreciation factors used in the cost approach.

Evidence regarding the current listing of property characteristics will again be investigated by the Division in the information gathered from the county assessors. The process of gathering information to accurately list real property for the assessment roll includes the process commonly referred to as "pick-up work." Pick-up work is the annual process of listing for assessment the real property added to the roll in the last year, and includes new construction and modifications to existing real property. Specific information regarding the requirement for building permits or the use of the documents required by section 77-1318.01, R.R.S. 1996, will be investigated. As stated in the 1996 Report the failure to annually update the assessment roll with pick-up work leads to substantial undervaluation within the assessment jurisdiction, not to mention violation of the requirement of uniform valuation and non-commutation of tax provisions of the Nebraska Constitution.

Many counties will undertake the process of reappraisals of classes or subclasses of real property within the county. While the Division is required by law to approve all reappraisal contracts, in no manner is the Division involved in assuring that the reappraisal work meet specified standards. The county must protect itself from any inadequate work. However, as suggested by the Commission in hearings during statewide equalization, one requirement that the county could employ would be that the resulting assessed valuations of all reappraised real property achieve the standards required in General Order Number 6 of the Commission.

RESIDENTIAL REAL PROPERTY

This class of real property provides the most number of sales from which to determine market value. It is by far the most actively traded class of real property. Additionally, these sales, more likely than not, represent arms length transactions, with little or no outside influences. In light of these circumstances, the additional statistical data developed from all sales in the sales file will provide useful information to the Commission and the county assessors in reviewing the quality of assessment practices.

Residential real property presents several additional challenges for 1998. The Division will continue to represent all subclasses of residential real property in the statistical data, including but not limited to: vacant land; mobile homes; acreages; and, recreational real property. The Division will modify its statistical output to help recognize these subclasses from the remainder of the subclasses of real property. However, the data will highlight the importance of accurate coding of the assessment information of each residential real property both on the assessment records of the county assessor and in the assessment information in the sales file.

The Division will continue its efforts to represent the effect of small dollar sales on the overall statistics, and improve the manner in which the information is displayed for usefulness to the Commission and the county assessors. The Division will maintain additional years of residential sales, particularly in sparsely populated counties, should the Commission or the county assessor desire to explore this data for assistance in establishing-assessed valuations. Additionally with regard to sparsely populated counties, the Division will continue to make available sales data from other parts of the state to assist these counties in strengthening the determination of market value.

Many of the comments made in the 1996 Report continue to be valid; however, they will not be repeated in the 1997 Report.

COMMERCIAL AND INDUSTRIAL REAL PROPERTY

While commercial real property and industrial real property may be analyzed separately, this report will discuss the problem areas of these two classes together, as the problems are identical.

This class of real property provides the fewest number of sales from which to develop market value. It is by far the least actively traded class of real property. Additionally, these sales, more likely than not, do not represent arms length transactions, and the selling prices are significantly effected by factors beyond the value paid for the real property. Commercial and industrial property presents several challenges for 1998: low number of sales statewide; inconsistent classification of the property sold; and, proper subclassification of the class within the county.

Commercial and industrial real property analysis has historically caused the most concern for the Division in developing the level of value for a county. Our historic answer has been to rely on the presumption that the county assessor has properly valued this class of real property, and to assume it is valued at 100% of market value. The Division will maintain three years of sales information for commercial and industrial real property in case this information would provide guidance regarding the level of value of these classes of real property.

AGRICULTURAL LAND

This class of real property provides a sufficient number of sales from which to develop market value. The assessment of this class of real property was more restrictively governed by statute; however, if LB 270 is adopted the statutory restrictions will be repealed. This legislative change should make it easier to recognize the market valuation influences within the agricultural land market, thereby providing additional opportunities for the county assessor to achieve market value. The Division shall modify its output to more adequately displayed the statistical information representing a county assessor's use of market areas. The challenges in the valuation of agricultural land for 1998 include: low number of sales within a county; uniform classification of the land; and, recognition of agricultural market influences on the sales of agricultural land.

It is the Division's opinion that when the policy of valuing agricultural land changed to market value reliance upon the detailed classification and value structure from the prior policy became obsolete. As stated earlier, classification is an important process in the assessment function, but it does not guarantee quality valuation. However, because agricultural land crosses every county line in this state, across-county line comparisons are valuable tools in the statewide equalization of this class of real property. The classification method required by the Division is contained in the Nebraska Agricultural Land Valuation Manual, and is based on the policy that consistent classification will allow for accurate across-county line comparisons. This uniform-classification-will also allow for the easy sharing of sales information from one county to another in similar areas of the state. It is the position of the Division that each county that has not implemented the soil conversion contained in the 1997 manual must implement the conversion in for the 1998 assessment year.

Other issues of concern regarding agricultural land are similar to those raised in the 1996 Report, including an accurate inventory of the soil types, which form the basis for the classification of agricultural land and recognition of the various market areas of agricultural land in the county.

Focus on these issues must continue to be explored to assure that the valuations are proportionate both within the county and among the counties.

GEOGRAPHICALLY DEFINED ISSUES

Two issues fall within a geographic description. First, the issue of the valuation of improvements located on land that is leased. The Commission has heard testimony regarding recreational property, in the sense that there are areas within the county designated as recreational areas, such as lakes, rivers or other geographically desirable locations (as opposed to classification of an improvement as recreational). The issue presented is the attempt to recognize the market valuation of these improvements that are, in some cases, dramatically effected by the location in the recreational area. The position of the Division is that the market value of these specially located properties must be recognized so that all parcels of real property will pay a proper proportionate share of the property taxes assessed. Additionally, the valuation of the improvement must recognize the entire bundle of rights, or as stated in statute "all privileges pertaining to real property", associated with the improvement, not just the value of the improvement itself. (Section 77-103 (5), R.R.S. 1996.)

Second, the issue of the valuation adjustments applied to agricultural land that is frequently flooded. The Commission has heard testimony that there are adjustment factors that are applied to land that meets this description. It appears that these adjustments were determined through agreement of several county assessors. The position of the Division is that any adjustment applied to certain real property may be valid so long as the adjustment is derived through an analysis of market data supporting such an adjustment and that the adjustment is reviewed annually for proper application.

CONCLUSION

The 1997 Report summarizes many issues for the Commission's consideration. The Administrator and the Division will focus on providing information and assistance to resolve many of the concerns that have been expressed regarding the 1997 assessment process. We pledge our commitment to facilitating improvements outlined in the 1997 Report and issues raised by the Commission in the formal plan of equalization.